FDA reform issue. Although I have paid tribute to Senator KASSEBAUM in separate remarks here, I must reiterate again how much her reputation for equilibrium and fairness have lent to development of an FDA reform proposal which cleared the committee in such a bipartisan fashion.

Finally, I must also pay tribute to the lead staffer on FDA issues, Jane Williams, who has worked virtually round-the-clock to try to fashion a good, fair, bipartisan reform bill. Jane more than exceeded that goal, and I think this body should give her some much-deserved recognition.

I yield the floor.

PRESIDENT CLINTON'S CODDLE A CONVICTED CRIMINAL CAMPAIGN, PART II

Mr. HATCH. Mr. President, an administration's crime policies are a web of many factors. They include, for example, the kind of judges a President will appoint. They include an administration's prosecutorial policies and its outlook on the drug problem and how to combat it. And they include the scope and nature of prisoners' rights an administration asserts against State and local government prisons and jails.

I have spoken several times about soft on crime Clinton administration judges. President Clinton has been soft on drugs. After years of declining use, the drug problem is on the rise—on President Clinton's watch. And there is no way that he can avoid the criticism.

Today, I wish to speak again about the Clinton administration's coddle a convict program. The President is responsible for protecting the constitutional rights of convicted criminals and arrestees incarcerated in State and local prisons and jails. This is pursuant to the Civil Rights of Institutionalized Persons Act [CRIPA].

I might add that I was the deciding vote on that act, and was the prime cosponsor, along with Senator Bayh, of that act many years ago.

Convicted criminals do have some constitutional rights and we provided for them in that act; but, understandably, those rights are very sharply circumscribed. And, to my mind, the Clinton administration takes a very liberal view of these rights and reads the rights of the accused and of convicted criminals more favorably than the Constitution requires or even permits.

On June 4, 1996, I drew the Senate's attention to some of the constitutional violations the Clinton administration claimed the State of Maryland was committing at its Supermax facility. This facility holds the worst of the most vicious criminals in the Maryland State prison system—murderers, rapists, and other hardened criminals.

Now, is the Clinton administration citing the State of Maryland because it beats the convicts at Supermax? No. Is the Clinton administration citing Maryland because it tortures or starves these vicious criminals? No.

Mr. President, the Clinton administration is citing the State of Maryland, in part, because ''food is served lukewarm or cold'' to these murderers and rapists.

This is not all. The Clinton administration insists that Maryland provide these killers and rapists ''one hour of out-of-cell time daily. At least five times per week, this out of cell activity should occur outdoors, weather permitting.'' [Letter of Mr. Patrick, May 1, 1996, to Governor Parris N. Glendening, page 12]. That is right Mr. President, the hardened criminals who are the worst of the worst, who require special supervision, have a constitutional right to fresh air, to go outdoors. This does not represent law and order. This is the coddling of vicious criminals.

Mr. President, this coddling campaign does not end at Maryland's Supermax facility. While time does not permit a full airing of this little known Clinton administration campaign, let me share with my colleagues just some of its more egregious outrages.

Bear in mind, Mr. President, that certain penal policies may be desirable. But, the Constitution permits criminal prisoners to be afforded much less than the ideal. The Constitution certainly does not require States and localities to adopt model policies, as the Clinton administration seems to be trying to cram down the throats of State and local governments.

The Clinton administration sent a June 1, 1995, letter to the Lee County jail in Georgia, a jail which had 27 inmates at the time. Here is one of the unconstitutional conditions the Clinton administration found at this jail:

''Inmates receive only two meals a day, and crackers and soda for 'lunch.' They do not receive juice or milk * * *'' [June 1, 1995 letter from Assistant Attorney General for Civil Rights Deval L. Patrick to John L. Leach, III; page 3].

Mr. President, doesn't your heart just bleed? The inmates of this county jail do not get juice or milk. So, let us make a Federal case out of it, at least according to the Clinton administration. Let us threaten to sue this Georgia county, let us use the vast power of the Federal Government to ensure that the 27 inmates at this county jail get their juice or milk.

I am confident of one thing, though: these crooks must get their cookies during the day. How do I know? Because if they didn't, the Clinton administration would be claiming a violation of their constitutional rights.

Moreover, Mr. President, according to the Clinton administration, those arrested and detained for crimes have a constitutional right to wear underwear. You don't believe me, Mr. President? Am I satirizing the Clinton administration policies?

Let me quote from the Clinton administration's April 16, 1996 letter to the Virginia Beach, VA city jail. Here is one of the ''conditions [which] violate the constitutional rights of prisoners housed at the jail.'' Let me go into it again.

''* * * [the jail] fails to provide underwear to newly arrested people who are wearing 'unacceptable' underwear at the time of their arrest. Unacceptable underwear is defined by [the jail] as any underwear other than all white underwear devoid of any ornamentation or decoration * * *. As a practical matter, this practice results in inmates having no underwear for extended periods of time * * *.'' [April 16, 1996 letter from Mr. Patrick to Mayor Meyera E. Oberndorf, pages 2, 5.]

This is ridiculous. Can you imagine it, Mr. President? The Federal Government, led by the Clinton administration, is fighting for the alleged right of inmates to wear underwear, and in the name of the Constitution, no less. Some of these inmates include accused murderers and rapists. James Madison has got to be rolling over in his grave.

On October 18, 1993, the Clinton administration listed ''conditions at the [Grenada City, MS] jail [which] violate the constitutional rights of the prisoners confined therein.'' [October 18, 1993 letter from Acting Assistant General Attorney General James P. Turner to Mayor L.D. Boone, page 2]. The Clinton administration noted that its inspection ''revealed that inmates are not provided an exchange of clean linen, such as sheets, blankets, pillows, and pillow cases on a scheduled weekly basis.'' [page 4]. On July 21, 1994, the city signed a consent decree at the Clinton administration's behest, which codifies in a court decree this requirement of weekly linen service.

Just weeks later, however, the Constitution changed according to the Clinton administration: ''Prisoners should have a clean clothes and linen exchange at least three times per week.'' [August 3, 1994 letter from Mr. Patrick to Sheriff Robert McCabe, Norfolk, VA city jail, page 8.]

Mr. President, I am sure it is sound penal policy to provide clean clothes and linen exchange once or even three times a week. But the Clinton administration has no business imposing its policy preferences as requirements on States and localities under the false guise of enforcing the Constitution. Inmates' clothing and linen have to become awfully wretched before a constitutional violation occurs. This is an extra-constitutional convenience, a Clinton administration coddle, and not the enforcement of the Constitution.

The Clinton administration's coddling of criminals does not stop there. The Clinton administration is compelling jails and prisons to ''ensure that no inmate has to sleep on the floor.'' The Clinton administration told the Tulsa County Jail that it must ''[p]rovide all inmates within twenty-four hours of their admission with a bunk and mattress well above the floor.'' [September 13, 1994 letter from Mr. Patrick to Lewis Harris, page 15.]

It is certainly preferable to give inmates a bunk to sleep in. But, jail and

prison space do not always match the number of criminals and detainees requiring incarceration. The Constitution does not require a bunk for every inmate. Sleeping on a mattress on a floor or on the floor itself may not be convenient, but the Constitution does not require prisons and jails to afford comfortable lodging for every criminal.

But just listen to the bleeding heart of the Clinton administration, time and again bringing the full weight of the Federal Government down on the law enforcement systems of our localities and States. On October 26, 1993, the Clinton administration advised the Lee County jail in Mississippi that the jail ''is routinely overcrowded. [Its capacity] is 54, but there were 80 inmates on the first day [of the Justice Department's tour]'' and occasionally the inmate population is about double the jail's capacity. This means ''that some inmates have to sleep on bunks in the day rooms, on mattresses on the floor, and on top of the day room tables * * *.'' That is unconstitutional, according to the Clinton administration. [October 26, 1993 letter from Mr. Turner to Billy Davis, pages 2, 3.] The Clinton administration demanded that the jail ''house[] only an appropriate number of inmates and that none of the inmates sleep on the floor.'' [page 8].

Indeed, Mr. President, take a look at how the Clinton administration handled the Forrest County, MS, jail. The Clinton administration cited the jail because it ''is consistently overcrowded. Although the facility is designed to house 172 inmates * * * [it has] housed up to 242 individuals on a single day. On the day of [the Justice Department's] tour * * * the jail housed 203 inmates. Inmates have slept on mattresses on the floor for the past year.'' [July 6, 1993 letter from Mr. Turner to Lynn Cartlidge, Attachment, page 4].

The Clinton administration, with the full leverage of its resources, prevailed upon the county to enter into a consent decree nearly 2 years later. The consent decree provides that, ''[t]he jail's population shall not exceed the rated capacity of 172 unless temporary conditions exist beyond the control of [the County].'' Even then, the county must do all it can within its control to get the inmate population down to 172 [Consent decree, paragraphs 67–69].

Mr. President, the inmates at Forrest County jail, or any other jail or prison, do not have a constitutional right to be routinely housed at a jail with no overcrowding whatsoever. But the inmates' allies in the Clinton administration have created that right for them.

Mr. President, the Clinton administration has also discovered a constitutional right to fresh air for the inmates. According to the Clinton administration, the Lee County, MS, jail's ''installation of individual domestic-type air conditioners did not provide minimum ventilation for the purposes of fresh air supply, air exchange and overall cooling, as indicated by the 91 degrees Fahrenheit temperature and the 75 percent relative humidity in the cell housing areas. * *'' [page 5]. Does that sound like cruel and unusual punishment to you, Mr. President?

I know of thousands, hundreds of thousands of Americans who live no better than that. But our prisonors have to be coddled. We have to take good care of them and make sure they all have air conditioning.

The Clinton administration has relentlessly fought for the rights of inmates to outdoor exercise and to exercise equipment. It complained to the Onondaga County jail of Syracuse, NY, that, ''outdoor recreation facilities' consist of only 1 operative basketball hoop and underinflated basketballs [and no other type of equipment.]'' My goodness, here is the Clinton administration's demand on that county jail: ''Existing outside recreation space must be equipped with sufficient sporting/recreation equipment to afford prisoners the opportunity to participate in large muscular activity. [The Jail] must assure that both indoor and outdoor recreation programs exist for prisoners.'' [October 18, 1994 letter from Mr. Patrick to Mr. Nicholas J. Perio, page 14.]

I am sure the citizens of New York State and the rest of our States can sleep easier knowing the Nation's jail inmates have this constitutional right to participate in large muscular activity with sufficient sporting and recreation equipment. I am sure we all rest easier knowing that these inmates have a right to indoor and outdoor recreation programs.

Mr. President, while the Constitution may require a minimum opportunity for inmates to exercise, there is no constitutional right to exercise out of doors. And there certainly is no constitutional right to exercise equipment and indoor and outdoor recreation programs.

Some of these programs may make sense as a matter of policy. I have no particular objection, for example, to outside exercise, which inmates can obtain without exercise equipment. But the Clinton administration has no business imposing these programs on States and localities in the name of the Constitution. The Clinton administration is seeking to constitutionalize its notion of enlightened prison policy and cram it down the throats of our State and local prisons and jails.

The Clinton administration cited the Calhoun County, GA, jail for allowing prisoners only 2 hours a week of out of cell exercise, staff availability permitting, and providing no exercise equipment. The Clinton administration demanded that, ''Inmates * * * be provided with exercise outdoors when weather permits, one hour per day, five days per week. Reasonable exercise equipment should be provided.'' [June 1, 1995 letter from Mr. Patrick to Mr. Calvin Schramm, pages 3, 5].

On the same day, the Clinton administration read the Constitution even more expansively when it cited the Lee County jail for exercise violations—the same jail that allegedly violated the Constitution by not providing juice or milk to the inmates. The Lee County jail must provide not 5 days of outdoor exercise, but 7 days a week of outdoor exercise. [page 6].

Let me touch on another Clinton administration coddle. According to the Clinton administration's reading of the Constitution, ''loss of meals must never be used as a punitive measure.'' [April 23, 1996 letter from Mr. Patrick to Mr. John Moore, Coffee County, Commission, GA, page 3.] From time immemorial, parents have sent children to bed without supper as punishment. But, just let a prison or jail try it on a convicted criminal, and they will wind up with the Federal Government on their backs, courtesy of the Clinton administration.

Moreover, the Clinton administration objected to a jail's inmate handbook which ''instructs inmates to eat 'quickly'. This is contrary to generally accepted correctional practice,'' claims the Clinton administration [page]. But the Clinton administration has no authority to impose generally accepted correctional practices on State and local governments. It can only remove unconstitutional conditions at state and local prisons and jails. The Clinton administration is seeking, once again, to constitutionalize what it considers to be sound correctional policy.

Now, let me read, in its entirety, one of the ''unconstitutional conditions'' found at the Dooly County, GA, jail. This jail has a capacity of 36 inmates:

''Food sanitation is poor. The Jail does not have a kitchen. Food is obtained from a nearby, private establishment. The lunch meal on the day of our tour, tuna fish, was served at approximately 65 degrees Fahrenheit. This is much warmer than food safety standards permit.'' [June 1, 1995 letter of Mr. Patrick to Mr. Wayne West, page 5.]

That is it. The serving of that warm tuna fish violated the Constitution.

On the same day, the Clinton administration found the following ''conditions at the Mitchell County, GA, jail violate the Constitutional rights of prisoners:

''* * * The food is transported by car in styrofoam or polystyrene containers not designed to maintain proper food temperatures. During our tour, the hot food for the evening meal, which should be served at a minimum of 140 degrees fahrenheit, was served at 115 degrees fahrenheit.'' The Constitution allegedly requires such proper insulation and temperatures for inmates' food. [June 1, 1995 letter from Mr. Patrick to Benjamin Hayward, page 6, 9.]

Mr. President, I could go on and on, about the areas just mentioned, as well as additional areas where the Clinton administration seeks to coddle criminals by demanding extra-constitutional privileges for them.

Scarce Federal law enforcement resources would be better utilized by focusing on putting more criminals behind bars rather than worrying about whether their tuna fish is too warm once they get there; whether their hot food is lukewarm, or heaven forbid, cold; whether they get juice or milk with their meals; whether they have to sleep on a mattress on the floor rather than a bunk a certain number of inches off the floor; whether they get outdoor exercise, exercise equipment, and recreation programs; and whether they get to wear underwear.

And the Clinton administration should stop diverting scarce State and local resources toward defending against, or bowing to, these bleeding-heart concerns.

Mr. President, I was the author, along with Birch Bayh, of the Civil Rights for Institutionalized Persons Act. I was the deciding vote on that vote. I believe it was in 1978 or 1979. It could have been 1980. It was an important bill. I believe in it. I do not think criminals should have their constitutional rights violated any more than anybody else.

But these assertions of the Clinton administration and these demands and these consent decrees and these costs to the taxpayers in those State and local areas are absurd. Frankly, we have to get them out of the pockets and lives of our State and local governments. When they find true constitutional issues, true constitutional wrongs, they ought to right them. But these are not constitutional issues or wrongs that need to be righted, and we have to give the State and local governments some flexibility. We also have to understand that these murderers and rapists and others have committed these crimes and they should not be coddled in the jails of this country.

Mr. President, I think we ought to quit making a distortion out of the Civil Rights for Institutionalized Persons Act and do what is right. But this is typical of this administration, and I had to make these comments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

FEDERAL AVIATION ADMINISTRATION REAUTHORIZATION

Mr. WARNER. Mr. President, I rise to urge the Senate, as quickly as possible, to address and pass the current piece of legislation relating to the airports. I do so for a very special reason.

Three airports primarily serve the bulk of the requirements of the Congress and the Federal Government, and the Greater Metropolitan Washington area: National Airport, Dulles Airport, and Baltimore International.

Some almost now, I think, a decade ago, I, together with others in this Chamber, fashioned the statute by which Dulles and National became independent, subject only to the Washington Metropolitan Airports Authority jurisdiction. In that legislation and in subsequent pieces of legislation, it was the wisdom of Congress that we need to constitute a special board to have some oversight responsibilities. It was highly controversial. The thought was that this board could bring to the attention of the metropolitan authority and others the particular needs of the users.

As it turned out, the Federal courts said that was unconstitutional, and we finally, now, had a Supreme Court decision which knocked down the functions of that legal entity. This bill puts into place the legislative corrections to implement the decisions of the Supreme Court and other Federal courts that have addressed this issue.

It is essential that legislation be passed for the very simple reason that as the Members of the U.S. Senate hopefully will begin their journeys home later this week, they will go through the airport and see both airports partially remodeled. Unless this legislation is in place, that remodeling, by necessity, will have to stop. The funds will run out.

I have just talked to the general counsel of the Washington Metropolitan Airports Authority. I ask unanimous consent to have printed in the RECORD certain documentation he will be providing the Senate today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY,
Alexandria, VA, October 1, 1996.

Hon. JOHN WARNER, U.S. SENATE, WASHINGTON, D.C.

DEAR SENATOR WARNER: We write to advise you of the critical importance to the Airports Authority of the enactment of the Conference Report on H.R. 3539, the Federal Aviation Reauthorization Act of 1996.

In addition to critical measures providing for improved security at all airports, and authorizing expenditures for the continuation of the airport improvement program grants and funding for the FAA, the Conference report contains vitally important provisions to restore the powers of the Airports Authority.

Since an April 1995 court order, the Airports Authority has been without basic powers to award contracts, adopt a budget, change regulations, or issue more revenue bonds. This is a serious matter for any public agency; for us, it goes to the heart of our business.

As you know, the Airports Authority is engaged in a $2 billion program to reconstruct Washington National and expand Washington Dulles International. We are now at the stage where we must raise more funds through the sale of revenue bonds in order to keep the construction work on track.

Enactment of the Conference Report now is essential to our ability to issue bonds next spring, and our overall ability to provide first-class air service to the public.

We therefore strongly urge that the Senate take action on the Conference Report before it adjourns.

Thank you for your steady support on this matter over the past two years. We look forward to working with you in the future.

Sincerely,

ROBERT F. TARDIO,
Chairman.

Mr. WARNER. Mr. President, he said ever so clearly that a bond, which will have to be issued next year to fund the ongoing modernization at both airports, that bond cannot be issued without this legislation in place, and preparations must commence now to go into the financial markets early in 1997 to get that next increment of funding required for this modernization.

That is not an issue that is at contest, but it is an issue that can literally put into semiparalysis the operation of these two airports; indeed, not only the inconvenience of a shutdown of remodeling, but there are some safety ramifications in air travel incorporated in having an ongoing orderly process of modernization and having it completed on schedule.

So, I fervently urge my colleagues to address this legislation as early as possible and to put in place the corrections that are found in this bill that will enable the Washington Metropolitan Airport Authority to continue an orderly modernization process.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

WHY AFRICA MATTERS: TRADE AND INVESTMENT

Mrs. KASSEBAUM. Mr. President, I rise to finish a series of speeches about Africa and why Africa matters to the United States. I am sure many of us, over the recent years, have looked at the Continent of Africa with some despair, seeing one crisis after another occur; and seemingly, as one is resolved, there is only another nation that has a terrible tragedy occur, a coup and civil war ensues.

I have spoken in a series of speeches about, one, our vulnerability in the United States to infectious diseases coming out of Africa, and addressed the many ways in which environmental crises in Africa can touch Americans right here at home. I have also addressed how international crime, terrorism, and narcotics trafficking in Africa affect our own sense of security here at home.

I believe that Africa does matter. But I believe there is also a great deal of hope for the countries of Africa. I believe there are many positive things that we should consider, and should not forget. Today, I want to conclude with a topic that I believe many people have overlooked in relation to Africa: trade and investment.

At the start of this Congress, I began the work of the Subcommittee on African Affairs in the Foreign Relations Committee by chairing a hearing on trade and investment in Africa. I think it is appropriate to conclude the work of this Congress on Africa issues by returning to this underemphasized area.

The focus of our hearing 2 years ago was not only to examine the potential role of private sector development in Africa, but also to bring to life the benefits to the United States of increased trans-Atlantic commercial ties.